

No. _____

IN THE
Supreme Court of the United States

CHARLES V. SCHNEIDER,

Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

*On Petition for Writ of Certiorari
to the
United States Court of Appeals
for the Eighth Circuit*

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In consonance with Rule 10(a) & (c), this case revolves around the consistent (for decades) misfeasance of inferior courts which calls for the exercise of this Court's long-absent supervisory power; decisions regarding an important question of federal law that conflict with relevant decisions of this Court; and, have not been, but should be finally, settled by this high Court.

Far worse than any circuit split is the split between the inferior courts and the United States Supreme Court.

The following two questions are presented:

1. Whether the U. S. Court of Appeals for the Eighth Circuit (or any other inferior court) has the Constitutional authority to rule in conflict with rulings/decisions of the United States Supreme Court.
2. Whether a court's judgment or ruling is invalid when it contravenes Constitutional and/or statutory law and cites, as precedent, only inferior courts that have obviously ruled in conflict with the United States Supreme Court.

PARTIES TO THE PROCEEDINGS

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DECISIONS / OPINIONS BELOW

U.S. Tax Court Case No. 10660-17L
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U. S. Court of Appeals for the Eighth Circuit
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U. S. Court of Appeals for the Eighth Circuit
Case No. 18-3094, (Judgment), at page, App. 1

JURISDICTIONAL STATEMENT

On 03/19/2019, the United States Court of Appeals for the Eighth Circuit entered a judgment (see page App. 1) dismissing the appellant's appeal of the Tax Court's Order and Decision in docketed case 10660-17L of 07/03/2018 (see page App. 3).

Appellant timely petitioned the 8th Circuit for a Rehearing en banc on 05/02/2019. The 8th Circuit, by order, on 06/10/2019, denied that petition as overlength (see page App. 2) — contrary to Supreme Court Rule 14.5, the Clerk did not return that petition for rehearing with a letter indicating the deficiency which effectively denied appellant the right to submit a corrected petition within 60 days.

This petition is timely filed within 90 days of the 8th Circuit's order pursuant to Supreme Court Rule 13.1 and this Court's jurisdiction to review is hereby invoked under Title 28 U.S.C. § 1254(1).

PROVISIONS INVOLVED IN THE CASE

The Constitution for the United States:

Art I., Sec, 2, cl. 3: "... direct taxes shall be apportioned among the several states."

Art. 1, Sec.8, cl. 1: "... all Duties, Imposts and Excises shall be uniform throughout the United States".

Art 1, Sec. 9, cl. 4: "no capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken".

Amendment XVI.

Statutes: (all below emphases mine)

26 U.S.C. §1(a) thru (d): "There is hereby imposed on the *taxable income* of —" [specified individuals].

26 U.S.C. §61(a): "Gross income means all income . . ." [The statute defines "gross" as "all" but *DOES NOT* define "income"].

26 U.S.C. §6001: [applies *only* to] "*Every person liable* for any tax imposed by this title . . ."

26 U.S.C. §6011: [applies *only* to] "*any person made liable* for any tax imposed by this title . . ."

26 U.S.C. §6012(a): [pertains *only* to] "Returns with respect to *income taxes* . . ."

26 U.S.C. [in the negative]: *No statute establishes a liability* for the tax imposed by §1(a) thru (d).

STATEMENT OF THE CASE

The Eighth Circuit Court of Appeals has jurisdiction to review Tax Court decisions under 26 U.S.C. §7482(a)(1).

This case revolves around the contention that the IRS and the government in general, including the judiciary, mistakenly interpret the sixteenth amendment as allowing a direct tax on property without apportionment. This very contention was presented, ignored, and circumvented with a bold equivocation (a blatant lie) by the Fifth Circuit in *Parker v. C.I.R.*, 724 F.2d 469, *infra*, at page 9; which is *commonly cited as precedent* by other inferior courts.

An objective review of the history of judicial malfeasance, misfeasance, and unlawful governmental practices demonstrates the need for this court's consideration of the questions presented in this petition.

The income tax has always been an excise.

In 1894, this court ruled in *Pollock v. Farmers' Loan & Trust Co.*, 158 U.S. 601 (1895) that a tax on gains and profits from rents and investments was the same as a tax on the sources [property] themselves; therefore, placing it in the category of a direct tax which was unconstitutional for lack of apportionment.

In 1913, congress proposed the Sixteenth Amendment to overcome the *Pollock*, *supra*, ruling as regards to *sources* of gains and profits. The legislature

purposely removed the word "direct" from an earlier draft which demonstrates that a *direct tax was NOT* the intention of Congress. Refer to SJR 39, June 17, 1909, Congressional Record Vol. 44, Part 3, p 3377.

The Sixteenth Amendment *DOES NOT* authorize the laying of *any direct tax* without apportionment. *Brushaber v. Union Pacific R. Co.*, 240 U.S. 1 (1916)

In 1937, this court, in *Steward Machine Co. v. C.I.R.*, 301 U.S. 548 (citing *Brushaber, Pollock*, supra, and others) ruled:

"Together, these classes include every form of tax appropriate to sovereignty . . . Whether the tax is to be classified as an 'excise' is in truth not of critical importance. If not that, it is an 'impost' . . . or a 'duty' . . . A capitation or other 'direct' tax it certainly is not.."

[emphasis added]

ARGUMENT

The Eighth Circuit Court of Appeals (as have all other inferior courts) has decided important questions of federal law that have not been, but need to be, settled by this Court; and the Eighth Circuit's decisions, in harmony with the other inferior courts, conflict with statutory law and relevant decisions of this Court.

I. PRELIMINARY CONSIDERATIONS

(a) The Constitution and the decisions of the Supreme Court are the law of the land. It seems most puzzling that a ruling of an inferior court can be considered valid or even precedential when in direct conflict with rulings of this high court.

(b) Quoting from *United States v. Goldenberg*, 168 U.S. 95 (1897):

“The primary and general rule of statutory construction is that the intent of the lawmaker is to be found in the language that he has used. He [congress] is presumed to know the meaning of words and the rules of grammar. The courts have no function of legislation . . . No mere omission, no mere failure to provide for contingencies, which it may seem wise to have specifically provided for, justify any judicial addition to the language of the statute . . . Any doubts as to their meaning are to be resolved against the taxing authority and in favor of the taxpayer.”

[emphases added]

(c) Considering “clear-statement rules” which demand that statutes be expressed in clear and unambiguous terms.

(d) Considering the regard for the “Rule of Law”: (re: World Justice Project's four universal principles)

(1) Accountability

The government as well as private actors are accountable under the law.

(2) Just Laws

The laws are clear, publicized, stable, and just; are applied evenly; and protect fundamental rights, including the security of persons and property and certain core human rights.

(3) Open Government

The processes by which the laws are enacted, administered, and enforced are accessible, fair, and efficient.

(4) Accessible & Impartial Dispute Resolution

Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve.

II. REASONS FOR GRANTING THE PETITION

For many decades (continuing to current day), congress and government agencies, aided by their attorneys, and the complicit inferior courts have *deceived* the trusting, law-abiding citizens of America into *believing the myth that the government has the constitutional power to directly tax their private earnings.*

The IRS, DOJ, and myriad inferior courts have defied this court and its 1916 ruling in *Brushaber*, supra, that clearly stated: “the contention that the Amendment

treats a tax on income as a direct tax although it is relieved from apportionment . . . is also *wholly without foundation.*" [emphasis added]

The above-mentioned entities routinely dismiss, as "*frivolous*", contentions and arguments based solely on *direct, verbatim quotations* of this high court. In effect, they arrogantly submit (evincing no recognition of this court's supervisory power) that many of the *Supreme Court's decisions, themselves, are frivolous!*

Our country is immersed in a Constitutional calamity! — the only solution for reversing this abuse of power and ending this perpetual hoax lies in the supervisory power of the Supreme Court.

The IRS publishes the following in its online document titled: "Truth About Frivolous Tax Arguments" "MARCH 2018" (at Section D-7):

"The Law: . . . Numerous courts [with no cite to the Supreme Court] have both implicitly and explicitly recognized that the Sixteenth Amendment authorizes a non-apportioned direct income tax on United States citizens . . ."

"Relevant Case Law: . . ." [the following are all prevarications of, with no direct citing to, *Brushaber* or any other Supreme Court rulings]

(emphases in original)

These decisions are all erroneous or at least misleading and need to be reversed!

“Young v. Commissioner, 551 F.App’x 229, 203 (8th Cir. 2014) – rejecting as ‘meritless’ and ‘frivolous’ Young’s arguments that the income tax is an unconstitutional direct tax . . .”

“Taliaferro v. Freemtran, [sic] 595 F.App’x 961, 962-63 (11th Cir. 2014) – the 11th Circuit rejected as frivolous the taxpayer’s argument that the Sixteenth Amendment authorizes the imposition of excise taxes but not income taxes . . .” [cites *Collins*, *infra*.]

“United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990) – the 10th Circuit found defendant’s argument that the Sixteenth Amendment does not authorize a direct, non-apportioned tax on United States citizens ‘devoid of any arguable basis in law.’”

“In re Becraft, 885 F.2d 547, 548-49 (9th Cir. 1989) – ... ‘rejecting the taxpayer’s frivolous position that the Sixteenth Amendment does not authorize a direct non-apportioned income tax . . .’” [cites *Parker*, *infra*.]

“Lovell v. United States, 755 F.2d 517, 518-20 (7th Cir. 1984) – the 7th Circuit rejected the argument that the Constitution prohibits imposition of a direct tax without apportionment . . .”

“United States v. Jones, 115 A.F.T.R.2d (RIA) 2015-2038 (D. Minn. 2015) – ... ‘It is well-established that

the Sixteenth Amendment authorizes the imposition of an income tax without apportionment among the states.' " [*purposeful omission of the word "direct"*.]

"Other Cases:"

"Broughton v. United States, 632 F.2d 706 (8th Cir. 1980) [in this case the 8th circuit truthfully states:]

'The sixteenth amendment authorizes the imposition of an income tax without apportionment.' " [But, again, the court surreptitiously avoided the word "*direct*" and purposefully chose to omit the fact that the tax is actually an "*excise*" and can only be imposed as such.]

(Cited in *Becraft* , supra, but *conspicuously absent* in the IRS's online document):

Parker v. C.I.R., 724 F.2d 469 (5th - 1984) – "The Supreme Court promptly determined in *Brushaber* ... that the sixteenth amendment provided the needed constitutional basis for the imposition of a direct non-apportioned income tax." [a most-obvious falsehood!]

Upon the granting of this petition, appellant will provide (in his brief) additional cites of cases wherein the Eighth Circuit Court of Appeals has erroneously ruled in conflict with, and defiance of, this honorable high court. It will be shown how the meaning of statutory language is extended beyond the studious intent of the legislature — enabling erroneous rulings in accordance with these falsifications — all the while frivolously claiming that petitioner's reliance on complete, verbatim quotes of rulings of the Supreme Court is frivolous and without merit.

Inferior courts and government agencies routinely demonstrate their seemingly firmly-held belief that many rulings of the Supreme Court of the United States are frivolous and without merit and, therefore, their [more-qualified] interpretation and/or judgment are required.

CONCLUSION

WHEREAS, the more thorough the reading of the William & Mary Law Review in Appendix D at App. 17 thru App. 32, the more remote the possibility of objectivity in the court and the more disparaging is the frail hope for Justice under "the law".

WHEREAS, the exercise of this high court's supervisory power in this matter of law has long been withheld. Too many petitioners have been denied their request for a writ of certiorari throughout the years. Whenever researching an obviously erroneous ruling by an inferior court that was appealed to this high court, it is simply cited as "cert denied" — no explanation or justification.

WHEREAS, (praying that this honorable court does not turn its head away and grants this petition) undeniable proof of malfeasance, misfeasance, and fraud on the parts of the IRS, DOJ, their myriad counsels, and inferior courts will be presented to the court in petitioner's brief.

WHEREAS, since the Court has failed to grant certiorari in cases that call for review, *it leaves the law unclear to this day.* (See Appendix D, page -App. 19-)

WHEREAS, the more thorough the reading of the William & Mary Law Review in Appendix D at App. 17 thru App. 32, the more remote is the possibility of objectivity by the court and the more disparaging is the frail hope for Justice under "the law". Doubt as to consistency and fairness is inherent throughout.

WHEREAS this case demonstrates that there is no ideological agreement between the Supreme Court and lower federal courts. There is a dire need for audit.

WHEREAS, the Constitution and the so-called "rule of law" are becoming mere glimpses of justice in days gone by.

WHEREAS, much is said of the concern for conflict (splits) between lower courts there is never mention of the total disconnect between those courts and the Supreme Court.

WHEREAS, there is considerable evidence that decisions are made, or heavily influenced, by clerks (the "cert pool") rather than the justices; and, these clerks (young and inexperienced) function under the duress of potential career-damaging judgments – rather than objectively following the dictates of actual law and constitutional jurisprudence. Their predisposition of looking for reasons/excuses to deny certiorari seems paramount.

WHEREAS, the ideological / philosophical division between the lower federal courts and the Supreme Court (in this matter) is ostensibly at a tipping point – since there is no ideological congruence there is a dire need for auditing of the lower courts.

WHEREAS, inferior courts stand in concerted defiance of this “Supreme” Court, this petition must be granted to bring unity to the application of federal law.

WHEREFORE, after due consideration of the foregoing, with no deference to conflicting rulings of inferior courts or unlawful, bogus claims of government agencies, this honorable court, in the interest of doing what is the lawful, right, and just thing to do, must grant this petition for its writ of certiorari to the Court of Appeals for the Eighth Circuit. Remand for opportunity to confront respondent in regard to actual federal law.

Respectfully submitted,

September 5, 2019



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